

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

**ERIE COUNTY ENVIRONMENTAL
COALITION, et al.,
Plaintiffs**

v.

**MILLCREEK TOWNSHIP SEWER
AUTHORITY, et al.,
Defendants**

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)**CIVIL ACTION NO. 05-59 ERIE**
)**ELECTRONICALLY FILED**
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**PLAINTIFFS' MOTION FOR LEAVE TO FILE RESPONSES TO
DEFENDANTS' AMENDED MOTION FOR SUMMARY JUDGMENT,
DEFENDANTS' BRIEF IN SUPPORT OF AMENDED MOTION, AND
DEFENDANTS' SECOND SUPPLEMENTAL CONCISE STATEMENT OF
FACTS**

Plaintiffs Erie County Environmental Coalition, PennEnvironment, and the Gaia Defense League (hereinafter "Plaintiffs"), by and through Counsel, hereby request an opportunity to file a response to Defendants Millcreek Township and Millcreek Township Sewer Authority's (hereinafter "Millcreek") Amended Motion for Summary Judgment, Brief in Support of Amended Motion for Summary Judgment, and Second Supplemental Concise Statement of Facts (Dkt. Nos. 82, 83, and 86.), and in support thereof state as follows:

1. On May 5, 2006, briefing concluded on cross-motions for summary judgment.
2. On February 16, 2007, after being granted leave of Court, Defendant filed a Supplemental Brief and Statement of Facts. Additional briefing followed, including a Sur-reply by Defendants on April 27, 2007 (Dkt. No. 68).

3. On April 22, 2008, Defendants made a series of filings, including an Amended Motion for Summary Judgment (Dkt. No. 82), Brief in Support of Amended Motion for Summary Judgment (Dkt. No. 83), and Second Supplemental Concise Statement of Facts (Dkt. No. 86.).

4. As they are in Amendment to a Motion, it seems appropriate for Plaintiffs to respond to the grounds and arguments in support thereof raised by the Defendants in their Amendment and Brief. After reviewing these documents, Plaintiffs request the opportunity to respond in order to inform the Court how Defendants' filings impact Plaintiffs' legal arguments and factual assertions.

5. After reviewing Defendants' Second Supplemental Concise Statement of Facts (Dkt. No. 86.), Plaintiffs request the opportunity to respond to these new facts in order to inform the Court how the filing impacts Plaintiffs' legal arguments and factual assertions.

6. Specifically, Plaintiffs request that they be given until May 22, 2008 to file their responses to Defendants' Amended Motion for Summary Judgment, Brief in Support of Amended Motion for Summary Judgment, and Second Supplemental Concise Statement of Facts, which date would be in accordance with Local Rule of Civil Procedure 56.1(c) pertaining to time for responses to motions for summary judgment.

WHEREFORE, Plaintiffs respectfully request that this Honorable Court grant this Plaintiffs' Motion for Leave to File Responses to Defendants' Amended Motion for Summary Judgment, Defendants' Brief in Support of Amended Motion for Summary Judgment, and Defendants' Second Supplemental Concise Statement of Facts.

Respectfully submitted,

/s/ Michael D Fiorentino

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Dated: May 6, 2008

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Motion for Leave to File Responses to Defendants' Amended Motion for Summary Judgment, Defendants' Brief in Support of Amended Motion for Summary Judgment, and Defendants' Second Supplemental Concise Statement of Facts by electronic means utilizing the Court's CM/ECF system that will serve notice of electronic filing to Mark J. Shaw, Esq., McDonald, Illig, Jones & Britton, LLP, Attorney for Defendants on this 6th day of May, 2008.

/s/ Michael D. Fiorentino

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